

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH FACEBOOK
USER ID**

**TARGET ACCOUNT:
"100007814089318"/Account "Jojo Blood Black
Money" Facebook preservation Case #580085**

**THAT ARE STORED AT PREMISES
CONTROLLED BY FACEBOOK**

Case No.

Filed Under Seal

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION UNDER RULE 41 FOR A WARRANT TO SEARCH AND SEIZE**

I, Ernest R. Mathis, being first duly sworn, do hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this application in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a Search Warrant authorizing the seizure of information associated with certain Facebook user ID that are stored at premises owned, maintained, controlled, or operated by Facebook, a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This Affidavit is made in support of an Application for a Search Warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscriber or customers associated with the user ID: TARGET ACCOUNT: "100007814089318"/Account "Jojo Blood Black Money" Facebook preservation Case #580085.

2. I have been a Special Agent with the Federal Bureau of Investigation (FBI) since July 1998. I am currently assigned to the Charlotte Field Office of the FBI's North Carolina

Division and part of the FBI Safe Streets Task Force. My duties include investigating violations of federal criminal law throughout the Western District of North Carolina, including Mecklenburg County. Through formal and on the job training, I have developed experience in investigations dealing with violent offenses set forth in United States Code. As a Federal Officer, I am authorized to investigate violations of federal law and to execute warrants issued under the authority of the United States.

3. I obtained the following information personally or through information from fellow law enforcement officers or witnesses. Because this Affidavit is being submitted for the limited purpose of establishing probable cause for a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish the requisite foundation for a probable cause finding.

PROBABLE CAUSE

4. On Monday, March 16, 2015, at approximately 11:55 a.m., a short black male (Robber) walked into the State Employees Credit Union (SECU) located at 9007 Pineville Matthews Road, Pineville, North Carolina carrying a long barreled bolt action shotgun. The robber pointed the gun directly at tellers and demanded money. Tellers complied and gave the robber SECU money. The robber was wearing a "Darth Vader" type mask and costume and fled in a Chevrolet Suburban. SECU is federally insured by the National Credit Union Administration.

5. Approximately 3 ½ hours later, on March 16, 2015, at approximately 3:30 p.m., Charlotte Mecklenburg Police Department (CMPD) officers stopped a 2002 Chevrolet Suburban being driven by THOMAS GILBERT, black male, date of birth: 09/14/1988, approximately 5'5" in height, who had been on electronic monitoring with CMPD and cut off his ankle monitor

on March 15, 2015. The 2002 Chevrolet Suburban that GILBERT was driving was determined to be stolen and inside the vehicle, CMPD recovered a long barreled bolt action .410 shotgun. GILBERT was arrested for possession of a stolen vehicle and felon in possession of a firearm.

6. The robber, vehicle and shotgun from the SECU video of the robbery appear to match GILBERT, the 2002 stolen Chevrolet Suburban and the firearm seized during his arrest.

7. On May 29, 2015, Affiant and other officers conducted a search on the 2002 Chevrolet Suburban that GILBERT had been driving. Items that were located and seized inside the vehicle included two black knit caps with eye holes cut out and a "Darth Vader" T-shirt.

8. On June 2, 2015, Affiant obtained a CD from the Mecklenburg County Sheriff's Office containing recorded jail calls placed by GILBERT since his arrest on March 16, 2015. The recorded jail calls have been reviewed and the following is a summary of some of the conversations:

- a. 3/16/2015 at 7:37 p.m., GILBERT calls 704-390-1269 and says, "They don't even know nothing about that shit earlier, they don't know nothing about that. I'm trying to get the hell up out of here before they find out anything about that. I got the 30 put up, so I done need y'all to, god damn, come get me now before they find out what really happened. They gonna hit me with the feds then, they ain't hit me with the feds yet, so come on."
- b. 3/25/2015 at 1:56 p.m., GILBERT calls 704-491-2879 and says, "The vehicle shit, I just switched my tag and shit on my shit, all the information on my car, I switched it. They ain't gonna do nothing but throw that out, I switched everything so they wouldn't know who I was, ya heard me"

c. 5/4/2015, at 10:16 p.m., GILBERT calls 704-491-2879 and the female, whom GILBERT is talking with says, "Thomas, I look that stuff up, remember when you told me what city to look in? It was just talking about Darth Vader, it said something about Darth Vader."

9. June 8, 2015, Affiant interviewed KIMBERLY RHODEN who was following GILBERT on March 16, 2015, when he was arrested by CMPD. During the interview, RHODEN showed her facebook account where an individual that RHODEN confirmed was GILBERT, using Facebook name: Jojo Blood, sent her the following message, dated Mar 14: "Well Monday this leg shit comin off my leg so me in my nigga going down to sc to get this money Monday that we been ready for since I been on this leg shit.... It's a game changer I'm talkin alot of money like 30b each." (See Attachment C)

10. A Preservation letter request for TARGET ACCOUNT as sent to Facebook on June 8, 2015.

The Target Accounts

11. Based upon my training and experience, and this investigation, I know that criminals often communicate through Facebook with other friends, such as RHODEN and others unknown. I know it is common for robbers to post pictures of themselves following their criminal activity, including, but not limited to, photographs of clothing wore in their robberies, photographs of illegal proceeds obtained during the robberies, weapons used in offenses. Moreover, as described above, GILBERT sent a suspicious message via Facebook to RHODEN two days prior to the robbery in which he discussed cutting off his ankle monitor and getting money.

FACEBOOK

12. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

13. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

14. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A

Facebook user can also create “lists” of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

15. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. In addition, Facebook users can “check in” to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

16. Facebook allows users to upload photos and videos. It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

17. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient’s “Inbox” on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or

on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

18. If a Facebook user does not want to interact with another user on Facebook, the first user can “block” the second user from seeing his or her account.

19. Facebook has a “like” feature that allows users to give positive feedback or connect to particular pages. Facebook users can “like” Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become “fans” of particular Facebook pages.

20. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

21. Each Facebook account has an activity log, which is a list of the user’s posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user’s Facebook page.

22. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs (“blogs”), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

23. The Facebook Gifts feature allows users to send virtual “gifts” to their friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase, and a personalized

message can be attached to each gift. Facebook users can also send each other “pokes,” which are free and simply result in a notification to the recipient that he or she has been “poked” by the sender.

24. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

25. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

26. Facebook uses the term “Neoprint” to describe an expanded view of a given user profile. The “Neoprint” for a given user can include the following information from the user’s profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which the user is a member, including the groups’ Facebook group identification numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications.

27. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

28. Social networking providers like Facebook typically retain additional information about their users' accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

29. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

30. I anticipate executing this Warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the Warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

CONCLUSION

31. Based on the forgoing, I request that the Court issue the proposed Search Warrant. This Court has jurisdiction to issue the requested warrant because it is "a court of competent

jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, this is a District Court of the United States that has jurisdiction over the offenses being investigated.

32. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

REQUEST FOR SEALING

33. I further request that the Court order that all papers in support of this Application, including the Affidavit and Search Warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation and the safety of the confidential sources.

Respectfully submitted,



Ernest R. Mathis
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me
On June 12, 2015



THE HONORABLE DAVID S. CAYER
UNITED STATES MAGISTRATE JUDGE